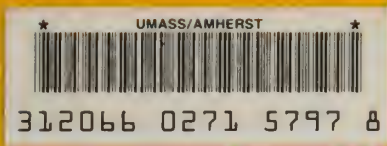


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THE COMMONWEALTH OF MASSACHUSETTS

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**LABOR RELATIONS COMMISSION**

**ANNUAL  
REPORT  
FISCAL YEAR 1997**

WILLIAM F. WELD  
Governor

ARGEO PAUL CELLUCCI  
Lieutenant Governor

ROBERT C. DUMONT  
Chairman

WILLIAM J. DALTON  
Commissioner

CLAUDIA T. CENTOMINI  
Commissioner

100 Cambridge Street, Room 1604  
Boston, MA 02202  
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# COMMONWEALTH OF MASSACHUSETTS

## LABOR RELATIONS COMMISSION

### FISCAL YEAR 1997 ANNUAL REPORT

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## ***MESSAGE FROM THE COMMISSION:***

The Honorable Governor Argeo Paul Cellucci  
The Great and General Court  
Citizens of the Commonwealth

In accordance with the Massachusetts General Laws, Chapter 23, s.90 (c), we are pleased to present to you the Annual Report for the Massachusetts Labor Relations Commission for Fiscal Year 1997.

Fiscal Year 1997 was a year of progress for the Commission as well as another year of relative peace on the public sector labor management front.

Some highlights:

- The number of formal decisions and decisions on appeal issued by the Commission reached sixty-five (65), a 50% increase over FY96.
- Our increased emphasis on settling cases prior to hearing resulted in closing fifty-three (53) unfair labor practice cases by the new Commission Conciliator.
- For the 4th consecutive year the number of cases closed in the Commission exceeded the number of charges filed.
- No strikes occurred during this year
- The Commission issued its "benchmark" decision for agency service fee cases.
- In FY97, the Commission conducted fifty-three (53) elections involving 3,069 eligible employees. In FY96, the Commission conducted fifty-eight (58) elections involving 10,711 eligible employees. The number of eligible employees was significantly higher in FY96, because one election, Unit 1 & 6, involved over 6,500 eligible employees.
- Commissioner Dalton's book A Practical Guide to Public Section Labor Relations, under the auspices of the Commission, was published in May of 1997. The guide provides public sector management and labor with a better understanding of the Commonwealth's collective bargaining laws. It has received a positive response from the labor and management communities.

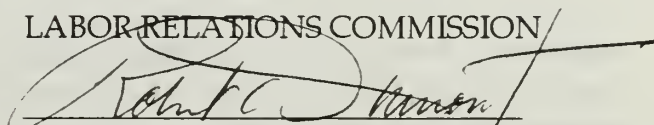
Our primary goal has been to provide prompt and fair resolution of unfair labor practices and representative cases filed at the Commission. Each charge is investigated and

a probable cause determination is made, resulting in either a complaint being issued or the charge being dismissed. There were 684 charges filed in FY97. A substantial number of these cases were dismissed at the probable cause stage and the remainder were assigned to an agent of the Commission to be heard. Prior to hearing, a significant number of these cases settled and we have seen an impressive increase in this method of resolution in this fiscal year.

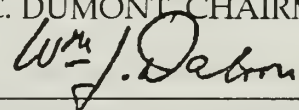
Maintaining and enhancing the lines of communication with the parties that appear before us is an important way to ensure the quality of our effort. To that end, we have continued to have periodic meetings with a representative group from the labor and employment section of the Massachusetts Bar Association. We have found their feedback to be helpful. In addition, we have made an effort to be present at appropriate professional meetings and seminars.

We hope this report and our continuing efforts to work together with all the parties who use our services contribute to our goal of maintaining a peaceful and productive labor/management relations environment.

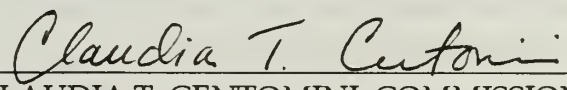
LABOR RELATIONS COMMISSION



ROBERT C. DUMONT, CHAIRMAN



WILLIAM J. DALTON, COMMISSIONER



CLAUDIA T. CENTOMINI, COMMISSIONER



## ***STRUCTURE OF THE COMMISSION***

The *Commission* consists of three members who are appointed by the Governor for staggered five-year terms, one designated as chairperson. Any member of the Commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. The Commission has the authority to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of the law. The Commissioners manage the Commission, hear and decide cases pending before the agency, authorize all litigation, and manage all personnel. For administrative purposes, the Commission is within, but not subject to the jurisdiction of, the Department of Labor and Workforce Development.

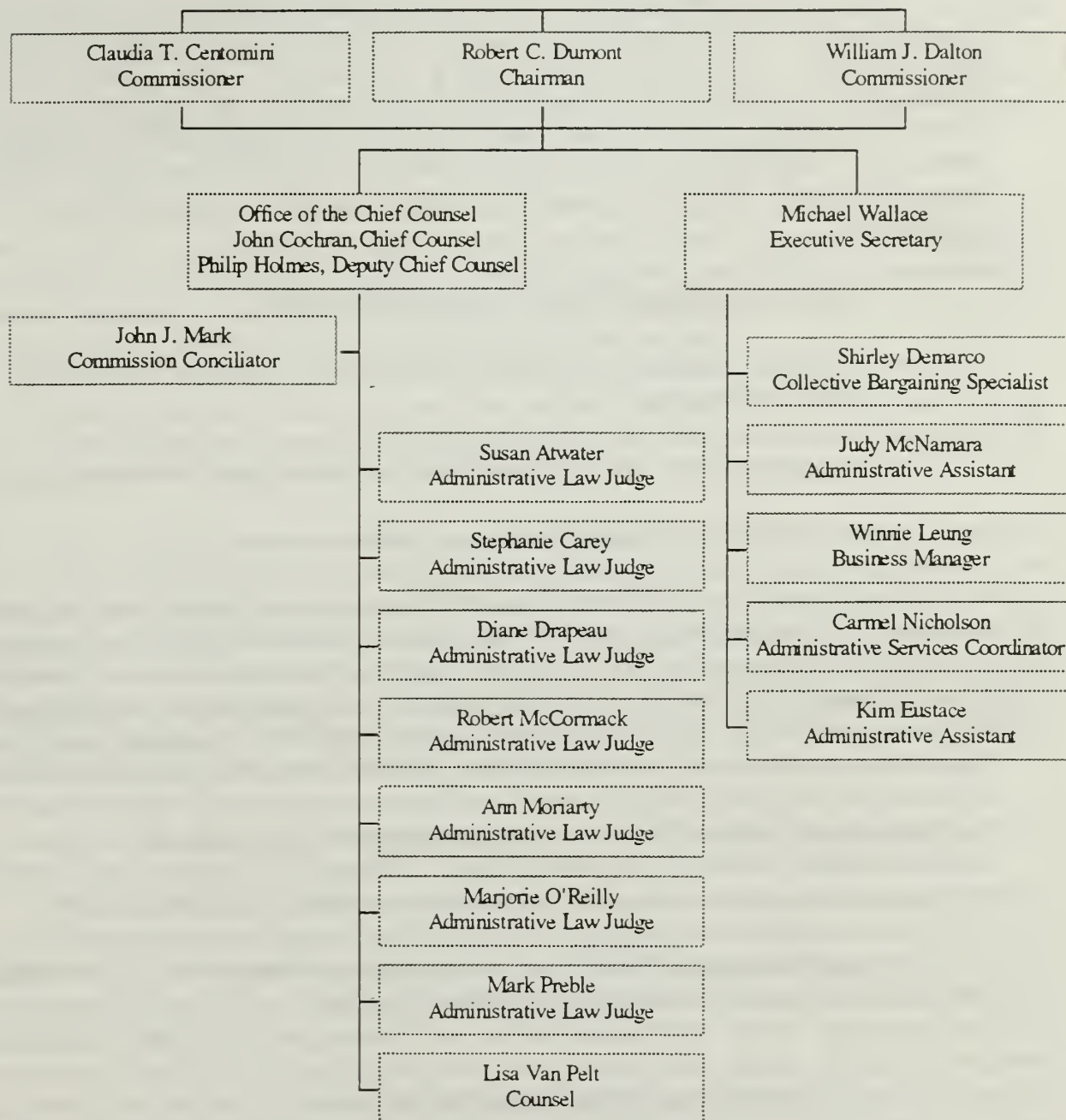
The *Executive Secretary* directs and supervises certain employees of the Commission. He assists the Commissioners in budgetary and other administrative matters, informs the Commission of the status of all matters pending before it, and maintains a permanent record of the disposition of cases.

The *Office of the Chief Counsel*, that includes the Chief Counsel and Deputy Chief Counsel, directs and supervises the legal staff in their duties of investigating cases, conducting hearings, and writing decisions. The Chief Legal Counsel serves as the Commissioners' principal legal advisor and personally supervises all litigation before the courts of the Commonwealth.

The administrative law judges, designated by the Commission as its agents, investigate and hear cases, and write decisions. Attorneys may also appear and represent the Commission in any court proceeding. Election specialists conduct on-site and mail ballot representation elections.

The administrative support staff docket all cases, type notices, decisions and court briefs, tabulate statistics, and process all internal and external records handled by the Commission, including personnel and purchasing records.

# LABOR RELATIONS COMMISSION ORGANIZATIONAL CHART



## ***STATEMENT OF THE COMMISSION'S RESPONSIBILITIES***

The Labor Relations Commission is a quasi-judicial agency and ensures the prompt, peaceful, and fair resolution of labor disputes by enforcing the labor relations laws of the Commonwealth. As the state counterpart to the National Labor Relations Board, the Commission administers the Public Employee Bargaining Law and the Private Sector Collective Bargaining Law, Massachusetts General Laws Chapter 150E and Chapter 150A respectively. These laws give employees of state and local government, and employees of private businesses who do not come within the jurisdiction of the NLRB the right and protection:

- to form, join, or participate in a union or association;
- to bargain collectively over terms and conditions of employment such as wages, hours and benefits;
- to engage in other concerted activity for mutual aid and protection; and
- to refrain from participating in any of these activities.

The Commission has existed since 1937, and its jurisdiction has been expanded frequently. The legislature has granted full collective bargaining rights to state, county and municipal employees in the executive and judicial branches of government. Approximately 98% of the Commission's caseload involves labor matters affecting public employees and 2% of the caseload involves the employees of private employers. By guaranteeing to employees the right to choose freely whether or not to be represented by a union and by impartially adjudicating claims between employees, employers and unions, the Commission ensures that labor and management live within the structures of the Commonwealth's collective bargaining laws. Through its decisions, the Commission establishes labor relations policy for public employees throughout Massachusetts.

Pursuant to its responsibility to ensure prompt and fair resolution of labor disputes, the Commission performs the following primary functions:

### **1. Disposition of Unfair Labor Practice Charges**

The Commission adjudicates charges of unfair labor practices as defined by the M.G.L. c. 150E and c.150A. For example, charges may be filed by either a union or an employer alleging that the opposing party has not bargained in good faith. A charge may be filed by an employee against an employer claiming that the employer has discriminated against the employee because of union activity. Charges may also stem from allegations by individuals that their union has not represented them fairly.



Whenever an employee, union, or employer files a charge with the Commission claiming that either an employer or union has committed an unfair labor practice, the Commission investigates the charge and after reviewing the facts alleged and legal arguments of the parties, determines whether it has "probable cause" to issue a complaint and conduct a hearing. If the charge is dismissed without a hearing, the charging party may request reconsideration of the matter by the Commission. If the Commission affirms the dismissal, the charging party may seek judicial review in the Appeals Court.

If the Commission determines that probable cause exists to believe that the law has been violated, a complaint is issued and a public hearing is conducted by an administrative law judge or other Commission agents. At the hearing, the parties may be represented by counsel, witnesses are sworn and evidence is taken. Following the hearing, each side has the opportunity either to file briefs or to offer closing arguments.

The administrative law judge may issue either a decision or recommended findings of fact. Either may be reviewed by the full Commission. Final Commission decisions may be appealed to the Massachusetts Appeals Court.

All administrative law judge and final Commission decisions are written and periodically published for the benefit of the public and the labor community in the Massachusetts Labor Cases, a private reporter service. The Commission's decisions are also available by CD ROM subscription through the Social Law Library. Excerpts of the decisions are also published in Mass. Lawyer's Weekly, National Public Employment Reporter, Government Employee Relations Report, Labor Relations Reporter, and Public Employee Bargaining. The Commission's decisions affect the collective bargaining process and the relationship between labor and management throughout the Commonwealth.

## **2. Conduct of Representation Elections and Bargaining Unit Determination**

The Commission conducts secret ballot elections for employees to determine whether they wish to be represented by a union. Elections are conducted whenever (1) one or more employee organizations claim to represent a substantial number of employees in an appropriate unit; (2) an employee organization petitions the Commission alleging that a substantial number of employees wish to be represented by the petitioner; or (3) a substantial number of employees in a bargaining unit allege that the exclusive representative no longer represents a majority of the employees. Elections may be conducted "on site" or by mail ballot procedures depending on the size of the unit and the relative cost of each type of election.

By law, the Commission must determine what bargaining unit is "appropriate" for collective bargaining. The agency must consider the "community of interest" that exists between different classifications of employees, the efficiency of the employer's operations, and the interests of employees in "effective" representation. The Commission assists the parties to reach agreement concerning an appropriate unit. When no agreement is possible, however, the Commission holds a hearing and issues a written decision.

### 3. Prevention and Termination of Strikes

Strikes by the employees of public employers are illegal under Massachusetts General Laws Chapter 150E. When a public employer believes that a strike has occurred or is imminent, the employer may file a petition with the Commission for an investigation. The Commission quickly investigates and decides whether an unlawful strike has occurred or is about to occur. If unlawful strike activity is found, the Commission directs striking employees back to work and issues other orders designed to help the parties resolve the underlying dispute. Most strikes end after issuance of the Commission's order, but judicial enforcement of the order sometimes necessitates Superior Court litigation which can result in court-imposed sanctions against strikers.

### 4. Agency Service Fee Determinations

Chapter 150E allows public employers to enter into collective bargaining agreements which require non-union employees covered by the agreement to pay an agency service fee to the union, "commensurate with the cost of collective bargaining and contract administration," as a condition of continued employment. Employees may challenge the amount of the annual agency service fee by filing an "amount" charge with the Commission. Such charges require a detailed evaluation of the union's expenses. Employees also may challenge a union's legal right to collect a fee by filing a validity charge with the Commission. Hundreds of charges are filed each year raising questions of constitutional rights, auditing and accounting practices as well as some labor policy issues. The Commission's rulings have set precedent in this emerging area of the law.

### 5. Court Litigation

Parties to final decisions issued by the Commission may appeal the decision to the Massachusetts Appeals Court. For this reason, the Commission functions as a trial level court for labor relations cases. Further appellate review may be sought before the Massachusetts Supreme Judicial Court. In addition, the Commission may bring suit in the Appeals Court to enforce compliance with final decisions of the Agency. Although the Appeals Court has original jurisdiction over Commission final orders, the Supreme Judicial Court often takes cases directly on appeal either at the request of a party or by its own motion. The Commission also occasionally must seek judicial enforcement in Superior Court of orders directing public employees to cease engaging in illegal strike activities.



Commission staff attorneys represent the Commission and conduct all of the agency's litigation.

## 6. Other Responsibilities

The Commission processes unit clarification petitions and requests for binding arbitration. Clarification petitions may be filed by an employee organization or an employer for the purpose of clarifying or amending a recognized or certified bargaining unit.

Massachusetts law specifies that a party to a collective bargaining agreement that does not contain a grievance procedure culminating in final and binding arbitration, may petition the Commission to order grievance arbitration. These "Requests For Binding Arbitration" are processed quickly by the Commission to assist the parties to resolve their grievances.

Sections 13 and 14 of Chapter 150E require the Labor Relations Commission to maintain a list of employee organizations and the bargaining units they represent. Section 7 of Chapter 150E requires public employers to file copies of all collective bargaining agreements with the Commission. The Commission requires labor organizations to provide the following information: the name and address of current officers, address where notices can be sent, date of organization, date of certification, and expiration date of signed agreements. Each organization must also file an annual report with the Commission containing: the aims and objectives of such organization, the scale of dues, initiation fees, fines and assessments to be charged to the members, and the annual salaries to be paid officers. The Commission relies upon various internal case-processing incentives to encourage compliance with the filing requirements.

## 7. Agency Priorities

The Commission's highest priority is to enforce the state's collective bargaining laws and to promote productive labor relations by resolving cases filed with the Commission as quickly as possible. Time required to resolve a case varies depending upon the nature of the legal claims, the resources of the parties and the resources of the Commission. Each charge requires docketing and clerical time; investigation and deliberation time; preparation of a complaint or dismissal order; and, when the charges are deemed sufficiently meritorious, a hearing with detailed factual findings and a legal decision, followed by time for appeals. Constitutional principles of due process dictate each step in the procedure. The Commission, however, has implemented techniques designed to reduce the agency personnel time required to perform each step. For example, on July 1, 1993, the Commission instituted a mandatory written procedure policy for unfair labor practice cases. This policy, which requires the parties to submit detailed documentation to the Commission, replaces time consuming, in-person investigation procedures has resulted

in a faster processing of cases. During FY 1994 and FY 1995, the Commission implemented additional internal procedures intended to emphasize case settlement as a means to improve productivity by resolving cases without time consuming trials. This increased emphasis on settling cases prior to hearing resulted in closing fifty-three (53) unfair labor practice cases by the new Commission Conciliator.

The changes instituted at the Commission have resulted in substantial improvement in the time it takes for the Commission to determine "probable cause" and hold hearings on cases. Formerly, it took six to eight months for a case to reach the Commissioners for a probable cause determination; it now takes less than three months from the time pleadings are filed. Formerly, the time span between the time a complaint was issued by the Commission to the time of hearing was six to eight months; it is now less than four months.

While the Commission has focused its attention to prompt processing of cases, it has in no way compromised its commitment to quality. By delivering clear legal opinions that provide guidance to the labor-management community, the Commission attempts not only to resolve the specific legal controversy that is the subject of the decision, but also to establish clear legal precedent that will guide other parties in the conduct of their labor relations.

## ***EVOLUTION OF PUBLIC EMPLOYEE BARGAINING***

- 1935** Wagner Act (National Labor Relations Act) gave collective bargaining rights to private sector employees in interstate commerce.
- 1937** Massachusetts passes Chapter 150A extending bargaining rights to private sector employees within the Commonwealth; Labor Relations Commission established.
- 1958** All public employees (except police officers) granted the right to join unions and to "present proposals" to public employers. Chapter 149, Section 178D.
- 1960** Employees of city or town could bargain provided that the law was accepted by the city or town. There were no specific procedures for elections nor the manner and method of bargaining. Chapter 40, Section 4C.
- 1962** The Massachusetts Turnpike Authority, the Massachusetts Port Authority, the Massachusetts Parking Authority, and the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority became subject to the representation and unfair labor practice provisions of Chapter 150A.
- 1964** State employees given the right to bargain with respect to working conditions (but not wages). Chapter 419, Section 178F. However, it was not until 1965 when the Director of Personnel and Standardization promulgated the rules governing recognition of employee organizations and collective bargaining negotiations that bargaining took place.
- 1964** Chapter 150A amended to include health care facilities as "employers" and nurses as "employees."
- 1965** Municipal employees given the right to bargain about wages, hours, and terms and conditions of employment Chapter 419, Sections 178G-N. This repealed Chapter 40, S.4C.
- 1968** Chapter 150A amended to expressly include private nonprofit institutions as "employers" and nonprofessional employees of a health care facility or of private nonprofit institutions (except members of religious orders) as "employees."
- 1969** Medonca Commission established by legislature to revise public employee bargaining laws.



- 1973 Most public employees - state and municipal - extended full bargaining rights under comprehensive new statute, Chapter 150E; binding arbitration of interest disputes involving police and fire employees.
- 1974 Chapter 150E amended to strengthen enforcement powers of Labor Relations Commission, modify union unfair labor practices, modify standards for exclusion of managerial employees.
- 1975 LRC issued standards for appropriate bargaining units affecting fifty-five thousand state employees in more than two thousand job classifications. Ten statewide units were created--five non-professional and five professional. Statute passed providing for separate bargaining unit for state police. [Employees of the University of Massachusetts, and the state and community colleges also have separate units.]
- 1977 Chapter 150E extended to court employees in the judicial branch; two state-wide units (excepting Middlesex and Suffolk Counties' Superior Court court officers) established for judicial branch employees.
- 1977 Housing authorities and their employees covered by the representation and prohibited practice sections of Chapter 150E. [Most other Authorities remain subject, to varying degrees, to Chapter 150A.]
- 1977 Joint Labor-Management Commission established to oversee collective bargaining negotiations and impasses involving municipal police officers or fire fighters.
- 1977 Agency service fee provisions are clarified to require that employee organizations provide a rebate procedure and to indicate which expenditures may be rebated to employees.
- 1980 "Proposition 2 1/2" enacted, repealing final and binding arbitration for police and firefighter contract negotiations.
- 1981 Chapter 150E amended to make decisions of the Labor Relations Commission reviewable in the Appeals Court.
- 1981 Labor Relations Commission empowered to refer to bargain cases to the Board of Conciliation and Arbitration of the Joint-Labor Management Committee for mediation.
- 1981 Section 11 of Chapter 150E amended to articulate the standard for issuing complaints in prohibited practice cases.

- 1981** The definition of "employer" or "public employer" in Section 1 of Chapter 150E was amended to specifically include all political subdivisions, with limited exceptions. In addition, the definition of "professional employee" in Section 1 of Chapter 150E was amended to specifically include a detective, member of a detective bureau or police officer who is primarily engaged in investigative work in any city or town police department with more than 400 employees.
- 1982** LRC issues comprehensive regulations setting forth agency service fee procedures, including requirements for unions to collect a fee pursuant to Section 12 of Chapter 150E and for employees to challenge the amount of validity of the fee.
- 1983** Chapter 150A amended to specifically cover private vendors who contract with the state or its political subdivisions to provide certain social and other services.
- 1984** The definition of "employer" or "public employer" in Section 1 of Chapter 150E was amended to include the newly created Massachusetts Water Resources Authority.
- 1986** Chapter 150E amended to forbid employers from unilaterally changing employees' wages, hours and working conditions until the collective bargaining process (including mediation, fact-finding or arbitration, if applicable) has been completed.
- 1987** Arbitration reinstituted for police and firefighter contract negotiations, with arbitration awards subject to funding by the legislative body.
- 1990** LRC revises regulations to clarify procedures and increase efficiency.
- 1993** The Education Reform Act of 1993 (St. 1993, c.71) impacts public employees by making major changes pertaining to the demotion and dismissal of teachers and principles.
- 1996** For cases in which the Commission issues a Complaint of Prohibited Practice and orders a hearing, Section 577 of Chapter 151 of the Acts of 1996 allows the parties to elect to submit the case to arbitration at any time up to thirty days prior to the commencement of the hearing ordered by the Commission.

## ***FILING A COMPLAINT***

### **A. Initial Filing**

The charging party must submit its written evidence and arguments to the Executive Secretary of the Commission either at the time of filing a charge or within twenty (20) calendar days from the date of the Commission's Notice that a charge has been docketed.

### **B. Submission Requirements (including time deadlines):**

#### **(1) Information Required of Charging Party**

The charging party must file the following information with the Executive Secretary, with a copy to each other party, either when the charge is filed or within twenty (20) calendar days of the date of the Commission's Notice that a charge has been docketed. The submission should be clearly labeled "Charging Party's Written Submission," and must contain:

(a) Numbered Allegations: A clear and concise statement of the relevant facts constituting the prohibited labor practice, including the name(s) of the individuals involved in the prohibited labor practice, the times and places of the particular act(s) giving rise to the dispute, and the specific provisions of either G.L. c.150E or G.L. c.150A alleged to have been violated. The charging party's claims must be in the form of numbered allegations. The written submission must be signed and the signer must affirm that the information in the written submission is true to the best of the signer's "information and belief."

(b) Affidavits and Documents: Charging Party is encouraged to provide sworn affidavits from witnesses with personal knowledge of the facts alleged in the written submission. If affidavits are supplied to establish the facts of the charge they should be based upon the affiant's personal knowledge. Evidence from people who lack personal knowledge of the facts to which they attest is less persuasive than sworn evidence from people with personal knowledge of the facts to which they swear; and may not be sufficient to establish "probable cause" to believe that the alleged facts demonstrate conduct which violates the Law. The charging party may either quote from or include documentary evidence, such as: collective bargaining agreement, letters, notices, pay records, etc, that are necessary to support the charge. The charging party's submission must be sufficient to establish probable cause to believe that either G.L. c.150E or c.150A has been violated.

(c) Relief Sought: A statement of the full relief sought by the charging party, if different from that specified in the charge filed with the Commission.



(d) Settlement Proposals: The charging party should state whether settlement has been proposed; and, if settlement has not been proposed, should explain why. The Commission may schedule a settlement conference at any time at the request of the Charging Party if the Commission concludes that a settlement conference would be helpful to resolution of the case.

(e) Grievance Information: Information about any grievance(s) related to conduct alleged to violate the law, the status of any grievance(s), a single copy of the contract upon which the grievance is based, a copy of the grievance, and an explanation as to why the Commission should or should not defer to the grievance or arbitral process.

(f) Mediation Information: Information about any mediation involving the parties to the charge pending at the Board of Conciliation and Arbitration or the Joint Labor Management Committee, the status of the mediation, and the charging party's position on the issue of referral to mediation.

(g) Other Information: Please include any additional information concerning relief sought, settlement efforts or other information relevant to the Commission's processing of this case.

## **(2) The Respondent's Response**

Any response which the respondent wishes to make must be written and must be filed with the Executive Secretary with a copy of each other party within twenty (20) calendar days after having received a copy of the charging party's written submission. The Responses should be labeled "Respondent's Response" and include the Commission's case number.

(a) Affidavits and Documents: If the respondent does not dispute the facts alleged by the charging party no affidavits need be filed, and the respondent should note that the facts are not disputed. If, however, the respondent wishes to contradict facts alleged by the charging party, the respondent is encouraged to supply sworn affidavits containing the contradicting facts. Affidavits should be written by people who have personal knowledge of the stated facts. Where appropriate, documentary evidence supporting the respondent's position should also be included or quoted. Evidence from people who lack personal knowledge of the facts to which they attest is less persuasive than sworn evidence from people with personal knowledge of the facts to which they swear; and may not be sufficient to rebut sworn evidence submitted by the Charging Party. Thus, if the respondent chooses not to supply sworn affidavits, but instead to rely upon information attested to by a party lacking personal knowledge of the facts, the respondent's evidence will be accorded less weight than sworn affidavits submitted by the Charging Party from witnesses with personal knowledge of the facts.

(b) Affirmative Defenses: The respondent should separately identify any affirmative defenses upon which it relies, and support its assertions with sworn statements of facts (which can be sworn as true based upon the signers "information and belief") and documentary evidence where applicable.

(c) Deferral or Referral: If deferral to arbitration is sought or the parties are involved in mediation the respondent must inform the Commission if it is willing to waive any contractual time defenses to arbitration, or other objections to mediation.

(d) Settlement Proposals: The respondent may suggest settlement proposals or explain why the matter has not yet been settled. The Commission may schedule a settlement conference at any time at the request of the Respondent if the Commission concludes that a settlement conference would be helpful to resolution of the case.

### **(3) Intervenorors**

(a) Any employee, employer or employee organization that moves for intervention pursuant to 456 CMR 12.03 may also file a written statement in support of its position concerning the charge. The statement must be accompanied by sworn factual affidavits and all documentary evidence on which the intervenor relies. The intervenor must file all statements and supporting evidence with the Executive Secretary and provide a complete copy to all other parties to the case within twenty (20) days of receipt of a copy of the charging party's submission to the Commission or within ten (10) days of receipt of a copy of the respondent's submission.

(b) Parties to the case must state whether they oppose or do not oppose any motion to intervene either when they file their written submission or within ten (10) days of receipt of the motion, whichever is later. Motions to intervene usually are decided after receipt of all written submissions. Persons who have moved to intervene shall be treated as "parties" for the purpose of serving documents prior to the Commission's ruling on their motion to intervene.

### **(4) Charging Party's Reply**

The charging party will have ten (10) calendar days from receipt of the respondent's submission to file a written reply with the Executive Secretary and with all other parties to the case. The written reply must fully explain any disagreement with the facts and statements made in the respondent's response. If the charging party disputes facts alleged by the respondent, the charging party must identify the disputed facts and must include relevant sworn affidavit and, where appropriate, documentary evidence to support the charging party's position.



## **(5) Unopposed Extensions of Time**

Parties may extend by mutual agreement any time for filing by giving the Commission written notice of the time extension to which they have agreed. All such extensions are limited to a combined total of three months per case, except for good cause when permitted by the Commission.

## **(6) Opposed Requests**

Any request for Commission permission to extend the time for filing which is opposed by another party to the case must be filed in writing with the Executive Secretary at least three days prior to the date when the submission is due and must contain the position of the other part(ies) concerning the request.

### **C. Commission Responses**

After review of all submissions by the parties the Commission will issue a probable cause determination. The Charging Party has the burden of presenting sufficient evidence to give the Commissioners "probable cause" to believe that the Respondent has violated the law. If the respondent chooses not to file a response, the Commission will make a probable cause determination based solely on the basis of the Charging Party's written submission. If the Respondent provides evidence that facts alleged by the Charging Party are untrue, it is unlikely that the Commission will find that the Charging Party has met its burden of establishing probable cause unless the facts alleged by the Charging Party have been submitted in affidavit form. If the Respondent chooses to support its assertions with affidavit evidence, the Commission will evaluate the adequacy of the affidavit evidence from both parties to determine whether the Charging Party has established probable cause.

The Commission may contact the parties to encourage settlement and may schedule a settlement conference at any time pursuant to 456 CMR 12.10.

### **D. Exceptions to Written Investigation Procedure**

The Commission may grant a request to conduct an in-office investigation in lieu of the written investigation procedure only in extraordinary circumstances and for good cause.

### **E. General Filing Requirements**

When referenced in this Notice the term "day" shall mean calendar days, including Saturdays, Sundays and legal holidays (456 CMR 11.06). All times are calculated according to Commission rule 12.07(1) which specifies:

(1) In computing any period of time prescribed or allowed by these rules and regulations, the day of the act, event or default when the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the next day which is neither a Saturday, Sunday or legal holiday including Suffolk County legal holidays.

All filings with the Commission shall be made in accordance with Commission Rule 12.11 which specifies:

(1) All pleadings, written motions, briefs or memoranda filed by any party in connection with any matter pending before the Commission shall be on paper measuring eight and one half (8-1/2) inches in width and eleven (11) inches in length.

(2) All pleadings, written motions, briefs and memoranda shall be typewritten and double spaced.

(3) An original and four<sup>1</sup> copies of all pleadings, written motions, briefs or memoranda shall be filed with the Commission.

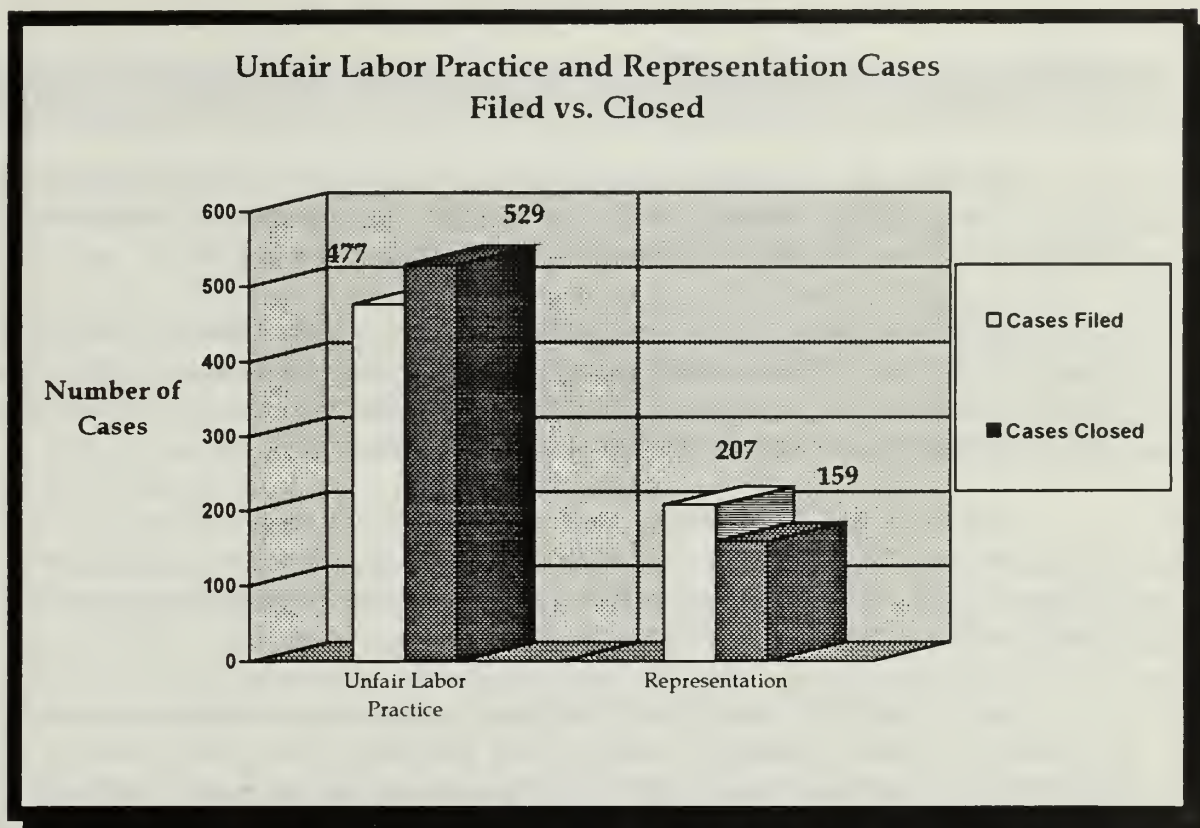
(4) All documents shall be deemed filed upon receipt by the Commission.

All filings must also contain a certificate of service. 456 CMR 12.02.

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<sup>1</sup> Although Rule 12.11 requires submission of an original and four copies of documents filed with the Commission, the Commission has decided to suspend application of the rule to written investigation materials for the convenience of the parties. Please submit one copy of any long document, such as a collective bargaining agreement, or evidence such as affidavits or documents. Please submit an original and two copies of all other documents containing legal argument, or factual narratives.

## CASELOAD ANALYSIS: FISCAL YEAR 1997



With the close of Fiscal Year 1997 on June 30, 1997, the total number of new non-agency service fee cases filed, six hundred and eighty-four (684), is a slight increase over the Fiscal Year 1996 figure of six hundred and seventy-one (671).

In Fiscal Year 1997 the Commission received four hundred and seventy-seven (477) unfair labor practice cases and two hundred and seven (207)<sup>1</sup> representation petitions. In contrast, the Commission closed five hundred and twenty-nine (529) unfair labor practice cases and one hundred and fifty-nine (159) representation cases.

The total number of non-agency service cases closed, six hundred and eighty eight (688) is an increase over the fiscal year 1996 figure of six hundred and eighty-three (683). For the fourth consecutive year, the number of new cases closed exceeds the number of new cases filed in Fiscal Year 1997. However, the Commission's most significant statistic may be that the Commission issued twice as many Commission Decisions and Decisions on Appeal in Fiscal Year 1997 than in Fiscal Year 1996.

<sup>1</sup> Including an unusually large number of cases filed in the last two (2) months of the fiscal year.



## ***VOLUNTARY SETTLEMENT***

Although the Commission has always been optimistic that parties would resolve their disputes prior to hearing, beginning in 1993 the Commission implemented internal procedures in its efforts to have parties to resolve issues prior to trial.

Commission agents have been asked to work closely with the parties in order to amicably settle unfair labor practice charges and representation cases. Failing settlement, Commission agents are asked to have the parties stipulate to as many facts as possible prior to hearing in order to make the trial run more smoothly.

Several of the Commission staff members have received training in mediation techniques and they have worked with other staff members in order to improve their settlement skills and the Commission has a Commission Conciliator whose sole function is to work with the parties to settle cases prior to hearing.

The Commission uses several methods to determine whether a case has a good probability to settle. Initially, when all the pleadings have been filed in a case, one Commissioner reviews the files to find those cases which have a high likelihood of settlement. Additionally, at the time the Commissioners make a determination to issue a Complaint, the case is evaluated for its probability of settlement. If that probability is sufficiently high, the case is referred to the Commission settlement group or the Commission Conciliator who contacts the parties in an attempt to resolve the issues. It should be noted that this does not slow the process for receiving a hearing date. Only at the mutual request of the parties will that trial date be delayed for settlement discussions.

If the Commission has determined that a case does not have a sufficiently high probability of settlement to refer it to the settlement group or the Commission Conciliator, the parties may still request that the Commission assist the parties in resolving the issues.

Only since 1993 has the Commission begun to tally the number of cases in which it has been involved in the settlement. During the past fiscal year, approximately one hundred and fifty cases were resolved with the Commission's help.

## ***PUBLIC INFORMATION/COMMUNITY RELATIONS***

The Commission understands that employees, unions and employers are better able to comply with the law when they understand their statutory rights and responsibilities. By providing information to the public and meeting with groups of employers and employees, the Commission attempts to reduce the numbers of charges filed. The Commission has authored A Guide to the Public Employee Collective Bargaining Law (now in its 8th edition) which explains Commission procedures, summarizes decisions and includes the text of the law and the Commission's regulations. The Guide is published and sold by the University of Massachusetts Institute of Government Services and used extensively by the public.

A Commission staff member is assigned to "Officer of the Day" duty to aid the many people who call or walk into the Commission with labor-related problems. Although the Commission cannot always solve the problems, the "Officer of the Day" provides accurate information to assist the public. The Commission also answers questions from the press concerning the status of various cases before the Commission.

The Commission supplies information to three local professional publications to inform practitioners in the field of public sector labor relations. The Massachusetts Labor Relations Reporter publishes information concerning decisions, court cases, hearings, elections, complaints, and all other activities; Massachusetts Labor Cases prints all Commission decisions in full; and Massachusetts Lawyers Weekly prints summaries of Commission decisions. Commission decisions are also frequently reported in national publications, including Government Employee Relations Reporter, the Bureau of National Affairs Labor Relations Reference Manual, and the Commerce Clearing House Labor Cases.

Commission agents travel across the state in an effort to make the Commission's services more accessible. Most elections are conducted at the place of employment. The Commission also provides training to large groups of constituents in order to prevent prohibited practices.

In order to provide better services to the western part of the state, the Commission has an office and hearing room in Springfield, which has been open since November, 1995.



**LABOR RELATIONS COMMISSION FISCAL YEAR 1997 BUDGET****Fiscal Year 1997 Spending**

AA - Employee Compensation	939,265
BB - Travel/Training	10,920
CC - Legal Intern	2,320
DD - Pension and Insurance Related Expenses	11,289
EE - Administrative Expenses	22,554
FF - Facility Operational Expenses	0
GG - Space Rental	5,904
HH - Consultant Services	9,529
JJ - Operational Services	0
KK - Equipment Purchase	1,497
LL - Equipment Lease, Maintenance, and Repair	20,411

<b>TOTAL</b>	<b>\$1,023,689</b>
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## ***DECISION HIGHLIGHTS***<sup>3</sup>

In Brockton School Committee, 23 MLC 43 (1996)(on appeal), the Commission considered whether a proposal to remove the names of exempt managerial employees from seniority lists used to determine the order of layoff was a mandatory subject of bargaining. Relying on Chelmsford School Administrators Association, 8 MLC 1515 (1981), the hearing officer had determined that the proposal was a permissive subject of bargaining because it involved terms and conditions of employment for employees who were no longer in the bargaining unit. However, the Commission disagreed, reasoning that the proposal at issue concerned the criteria to be used to determine the relative seniority of bargaining unit members, and was not limited to defining the seniority of employees after they left the unit.

In Town of Wenham, 23 MLC 82 (1996) (on appeal), the Commission determined that the Town had refused to bargain with the union representing a bargaining unit of call fire fighters employed by the Town that the Commission had certified in Town of Wenham, 22 MLC 1237 (1995). In reaching that decision, the Commission declined to disturb its conclusion in the underlying representation case that any of the Town's call fire fighters who responded to at least thirty-three percent (33%) of all alarms in a given year had a sufficient continuity of employment to entitle them to collective bargaining rights.

Town of Ipswich, 23 MLC 209 (1997) also involved a petition to represent a bargaining unit of call fire fighters. The petitioner asked the Commission to reconsider its prior decisions finding that a unit of call fire fighters was inappropriate where there was also a unit of permanent, full-time fire fighters. However, relying on its earlier decisions in Town of North Reading, 6 MLC 1565 (1979) and Town of Sturbridge, 18 MLC 1416 (1992), the Commission reaffirmed its policy of not creating two separate units for employees who perform similar functions under similar working conditions because that kind of dual unit structure would be incompatible with the goal of promoting stable bargaining relationships.

The issue before the Commission in Millis School Committee, 23 MLC 99 (1996) was whether the School Committee had violated Sections 10(a)(1) and (5) of the Law by negotiating directly with an employee about the method of repaying an early retirement stipend. In that case, a teacher had elected to receive an early retirement incentive but, after receiving the incentive, decided not to retire. Therefore, the superintendent permitted the employee to repay that money by working extra days beyond the regular school year. Although a hearing officer had determined that the method of repayment was not a bargainable issue, the Commission held that the method of repaying the retirement stipend

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<sup>3</sup> This summary of decisions is not a comprehensive review of all Commission decisions that have issued during the past year.

was a mandatory subject of bargaining and that the School Committee had bypassed the Union and entered an agreement directly with the affected employee concerning the method of repaying the stipend he had received.

In Higher Education Coordinating Council, 23 MLC 101 (1996), the Commission had an occasion to determine whether particular conduct by an employee constituted concerted, protected activity under the test it had set out in Town of Southborough, 21 MLC 1242 (1994). Specifically, the Commission considered whether an employee was engaged in concerted activity when she: 1) wrote a letter objecting to the manner in which the Employer had filled a vacant bookkeeper position; and 2) approached agents of the Employer to discuss raises for part-time employees. The Commission determined that, because there was no evidence that the employee had had any discussions with other employees about the subject of her letter protesting the posting of a vacant bookkeeper position, her letter was not concerted, protected activity. Further, the Commission determined that the record before it did not establish a nexus between any conversations with other employees and the salary concerns raised with the Employer.

The issue before the Commission in Boston School Committee, 23 MLC 111 (1996) (on appeal) was whether the School Committee violated Sections 10(a)(1) and (5) of the Law by refusing to bargain with the Union representing its custodial employees on two separate occasions because it: 1) planned to file a petition to initiate mediation with the Board of Conciliation and Arbitration (BCA); and 2) planned to ask BCA to investigate a previously-filed petition for mediation. The School Committee defended its conduct on the ground that its ability to seek assistance from BCA would have been impaired if it had not refused to bargain. However, the Commission rejected the School Committee's argument that merely expressing an intent to file a petition with BCA relieved it of its bargaining obligation, reasoning that it would frustrate the bargaining process to allow a party to refuse to bargain based only on the possibility that a petition would be filed with BCA. Further, the Commission found no evidence that the School Committee ever asked BCA to investigate a previously-filed petition.

In Commonwealth of Massachusetts, 23 MLC 117 (1996)(review sought in Superior Court), the Commission considered whether security and law enforcement personnel located at the Otis Air National Guard facility, Camp Edwards, Barnes Municipal Airport, Camp Curtis Guild, and the Natick National Guard facility were public employees of a public employer within the meaning of Section 1 of the Law. The record before the Commission reflected that the petitioned-for security personnel were funded by a cooperative funding agreement between the U.S. government and the Commonwealth that was administered by the state quartermaster, they were not eligible for state employee benefits, and they did not participate in the state retirement system or health insurance system. Further, there was no evidence that the commissioner of administration exercised any control over the state quartermaster. Therefore, because there was no evidence that the



commissioner of administration controls the working conditions of the petitioned-for employees, the Commission held that they were not public employees of a public employer within the meaning of Section 1 of the Law.

City of Lynn, 23 MLC 151 (1996) involved a petition to sever a bargaining unit of fire alarm operators and E-911 call takers from a City-wide bargaining unit that included a variety of other job titles, like garageman, tree climber, yard clerk, meter maids, golf pro, and associate planner, and police department telephone operators. Because the record before the Commission reflected that both the E-911 call takers and the police department telephone operators transmitted emergency calls to the police dispatchers and that the yard clerk also handles emergency calls and dispatches emergency equipment, the Commission did not find that the E-911 call takers and the fire alarm operators were a functionally-distinct appropriate unit with special interests sufficiently distinguishable from those of other unit employees. Therefore, it dismissed the petition to sever the E-911 call takers and the fire alarm operators from the existing unit.

In City of Malden, 23 MLC 181 (1997), the Commission considered the relative obligations of a school committee and a municipality when dealing with employees about health insurance benefits. The Union had filed prohibited labor practice charges against both the City and the School Committee alleging that they had unilaterally changed health insurance benefits and repudiated the health insurance provisions of a collective bargaining agreement. The City argued that, because Section 1 of the Law mandates that the School Committee bargain with school employees, the City had no obligation to bargain over changes in health insurance for those employees. However, the Commission concluded that, when dealing with school employees, a municipality and a school committee are a single entity and share the responsibility for making and fulfilling contractual commitments. Accordingly, when a municipality proposes changes in conditions of employment for school employees, it must allow its bargaining representative, the school committee, to satisfy its bargaining obligation before implementing any change in working conditions.

The Commission recently issued two decisions considering whether two sections of the Education Reform Act of 1993 (ERA), M.G.L. c. 71, Section 47A and Section 59B, affected a school committee's bargaining obligation. Lowell School Committee, 23 MLC 219 (1997)(on appeal); Lowell School Committee, 23 MLC 216 (1997)(on appeal). The first of those cases involved an allegation that the School Committee had violated Sections 10(a)(1) and (5) of the Law by unilaterally changing the criteria for appointing club coaches and club advisors. The School Committee argued that Section 59B gives principals and superintendents the authority to hire and fire club coaches and advisors, including the procedures for accomplishing those tasks. Section 59B provides that "principals...shall be responsible, consistent with district personnel policies and budgetary restrictions and subject to the approval of the superintendent, for hiring all teachers, athletic coaches, instructional or

administrative aides, and other personnel..." The Commission concluded that because the authority to appoint or reappoint club coaches and advisors must be exercised consistent with district personnel policies, a school committee must still bargain about the procedures used to decide who will be appointed or reappointed.

In the second case, the School Committee argued that it was not obligated to bargain over wages for athletic coaches because Section 47A transferred the power to contract with athletic coaches from school committees to superintendents. However, the Commission held that, because a superintendent must follow the district personnel policies, the transfer of hiring authority for athletic coaches did not strip school committees of their control over working conditions, including the procedure and criteria superintendents must apply when hiring athletic coaches.

The Commission issued its most comprehensive decision to date in an agency service fee case in Springfield Education Association, at al., 23 MLC 233 (1996)(on appeal). The Commission's decision was based on a fifty-three (53) day hearing at which the parties presented evidence about expenditures of the Massachusetts Teachers Association during the 1990-91 fiscal year. Based on that evidence, the Commission determined which expenses the MTA could include in calculating the amount of the service fee it charged to nonmembers during that period. Significantly, this decision sets forth the analytical framework that the Commission believes should be used in agency service fee cases. Under that framework, an employee who objects to the amount of a fee must voice an objection by filing a prohibited labor practice charge with the Commission; the union then has the burden of producing sufficient evidence to persuade the Commission that the fee reflects the fee payer's proportionate share of chargeable expenditures. However, once the union makes a prima facie showing of chargeability, the objecting fee payer assumes a limited burden of production to probe the union's evidence and to rebut the prima facie showing. The Commission expects that this framework will enable it to most efficiently process the hundreds of agency fee cases filed with it each year, while fully protecting the rights of all parties to those cases.

The central issue before the Commission in Higher Education Coordinating Council, 23 MLC 250 (1997) was whether the employer had violated Sections 10(a)(1) and (5) of the Law by failing to give its bargaining representatives sufficient authority to offer economic proposals. The record before the Commission reflected that, although the parties held fifteen bargaining sessions, the employer's negotiators would not make economic proposals until they had received prior approval from certain HECC administrators, who in turn conditioned economic offers on prior approval from the Secretary of Administration and Finance. Therefore, even though there was evidence that the Union had not objected to the employer's negotiators conditioning its economic offers on prior approval during previous negotiations, the Commission determined that the employer's previous conduct did not



diminish its obligation under Section 6 of the Law to make meaningful and timely economic proposals through negotiators with authority to make them.

One of the issues in City of Somerville, 23 MLC 256 (1997) (on appeal) was whether the City failed to bargain in good faith by unilaterally withdrawing recognition from the positions of city clerk and assistant city clerk. The City had defended its action on the ground that the incumbents of those positions were not public employees within the meaning of Section 1 of the Law because they are employed by the legislative branch of the City. Relying on its decision in City of Lawrence, 13 MLC 1632 (1987), the Commission determined that the record did not demonstrate that the City's board of alderman has day-to-day control over the incumbents of those positions or that they perform substantially legislative support functions. Therefore, the Commission concluded that the City unlawfully withdrew recognition from those positions.

## ***SELECTED LITIGATION***

JULY 1996 - JUNE 1997

### Decisions Issued:

1. Town of Falmouth v. Labor Relations Commission, 42 Mass. App. Ct. 1113 (1997). The Appeals Court summarily affirmed a Commission decision finding that Town had repudiated an agreement concerning outside details. The Town had entered conflicting agreements with two bargaining units, but the obligation to implement the arbitrator's award for one union is not a defense against other union's repudiation charge.
2. Massachusetts Correction Officers Federated Union v. Labor Relations Commission, 424 Mass. 191 (1997). The SJC affirmed a Commission decision reversing an ALJ and finding that the Commonwealth did not breach an employee's Weingarten rights when it declined to permit a Union representative to question an employee during an investigatory interview.
3. Leonard v. Labor Relations Commission, 42 Mass. App. Ct. 1112 (1997). The Appeals Court summarily affirmed a Commission decision finding that the Town of West Springfield did not violate Section 10(a)(1) of the Law by 1) notifying a agency service fee payer that she could be discharged for failing to pay dues or an agency fee; and 2) failing to provide her with information about the fee the union demanded that she pay. Further, the Commission's decision concluded that the Town did not constructively discharge her in violation of Section 10(a)(3) of the Law by demanding that she pay an improper agency fee.
4. Commonwealth of Massachusetts v. Labor Relations Commission, 42 Mass. App. Ct. 1105 (1997). The Appeals Court summarily affirmed a Commission decision concluding that the Commonwealth had violated Sections 10(a)(5) and (1) of the Law by refusing to provide the union with an incident report and witness reports concerning an allegation of sexual harassment.
5. Labor Relations Commission v. Massachusetts Bay Transportation Authority, 425 Mass. 253 (1997). The Supreme Judicial Court reversed a decision of the Superior Court in a declaratory judgment action concluding that the Commission does not have jurisdiction to determine whether employees on the MBTA's executive payroll are excluded from collective bargaining rights pursuant to M.G.L. c. 161A, Section 19A.

## Pending Cases

1. City of Lynn v. Labor Relations Commission, A.C. No. 93-P-810. An appeal from a Commission decision finding that the involuntary retirement process implicates a bargaining obligation and that the City unilaterally altered its involuntary retirement practice. The Appeals Court held oral argument on January 17, 1995.
2. Salem Teachers Union v. Labor Relations Commission, A.C. No. 95-P-637. An appeal of several aspects of Superior Court strike litigation, including a decision to allow School Committee's intervention, contempt trial procedure, and the amount of the contempt fine imposed by the court. The Appeals Court heard argument on September 24, 1996.
3. Teamsters, Local 59 v. Labor Relations Commission, A.C. No. 95-P-1852. An appeal from a Commission decision concluding that the Town of Chatham had not violated Section 10(a)(5) and (1) of the Law by failing to pay longevity and step increases after the parties collective bargaining agreement expired because there was insufficient evidence in the record about the practice between the parties. The Appeals Court heard oral argument on November 13, 1996.
4. Goncalves v. Labor Relations Commission, A.C. No. 96-P-591. An appeal from a Commission decision finding that a union did not breach its duty of fair representation by failing to assist an employee process a grievance because it mistakenly believed its duty to him was extinguished when he hired private counsel. The Appeals Court heard oral argument on April 10, 1997.
5. Wilson v. Labor Relations Commission, 95-P-193. An appeal from a pre-complaint dismissal of a charge alleging a breach of the duty of fair representation. The parties completed briefing in September 1996.
6. Cross v. Labor Relations Commission, A.C. 96-P-715. An appeal of a pre-complaint dismissal. The Commission filed a Motion for Summary Affirmance under Appeals Court Rule 1:28 on July 5, 1996.
7. Commonwealth of Massachusetts, A.C. 96-P-1081. An appeal of a final Commission decision concluding that the Commonwealth of Massachusetts unilaterally changed the criteria for granting leave and unilaterally eliminated pre-scheduled overtime at MCI Plymouth. The parties completed briefing in October 1996.
8. I.B.C.O v. Labor Relations Commission, A.C. 96-P-1265, an appeal of a Commission decision dismissing an appeal from an administrative law judge's decision as untimely. The parties completed briefing on January 8, 1997.



10. Town of Wenham v. Labor Relations Commission, A.C. 96-P-2051, an appeal of a decision of the Commission finding that the Town failed to bargain over a newly-certified bargaining unit of call fire fighters. The parties completed briefing on April 16, 1997.
11. Boston School Committee v. Labor Relations Commission, A.C. 96-P-1579, an appeal of a Commission decision concluding that the School Committee repudiated agreements reached, apart from their successor collective bargaining agreement, to maintain a specific custodial staffing level. The parties completed briefing on May 2, 1997.
12. City of Everett v. Labor Relations Commission, A.C. 96-P-1649, an appeal of a final Commission decision finding that Chapter 653 of the Acts of 1989 did not relieve the City of Everett of its obligation to bargain over increases in health insurance because an evergreen clause in the parties' collective bargaining agreement continued that agreement in effect past July 1, 1991, thereby triggering the grandfather proviso of Section 218 of Chapter 653. The parties completed briefing in June 1997.
13. City of Melrose, A.C. 96-P-0961, appeal of a final Commission decision concluding that the City repudiated a settlement agreement in which it agreed to maintain a complement of four fire fighters on its ladder truck if its fire fighting apparatus was reduced to three pieces. The parties completed briefing in June 1997.

#### Cases Awaiting Briefing

1. Riley v. Labor Relations Commission, A.C. 96-P-1707, an appeal from a pre-complaint dismissal.
2. Town of Wakefield v. Labor Relations Commission, A.C. 97-P-139, an appeal from a final Commission decision.
3. City of Cambridge, A.C. 97-P-550, an appeal from a final Commission decision.

#### Appeals Filed and Awaiting Docketing

1. Town of Plainville, MUP-8517
2. Commonwealth of Massachusetts, SUP-3459
3. Commonwealth of Massachusetts, SUP-3460



4. City of Somerville, MUP-8450
5. City of Leominster, MUP-8528, 8530, 8534 & 8535
6. Boston School Committee, MUP-9810 & MUP-1090
7. City of Holyoke, MUP-9468
9. Commonwealth of Massachusetts, SUP-3586
10. NAGE, SUPL-2634
11. City of Lawrence, MUP-9876
12. Wood's Hole, Martha's Vineyard & Nantucket Steamship Authority, UP-2621
13. Lawrence Association of Municipal Administrators and Supervisors, MUPL-4148
14. Commonwealth of Massachusetts, SUP-4226
15. Springfield Education Association, ASF-2143, et als.
16. Higher Education Coordinating Council, SUP-4352
17. City of Lawrence, MUP-1754
18. City of Boston, MUP-9605
19. Lowell School Committee, MUP-9690, MUP-1001 Decisions Issued:

## **COMMISSIONERS**

### **Robert C. Dumont, Chair**

Robert C. Dumont was appointed Commissioner, and designated Chair of the Labor Relations Commission in September of 1995, having previously served the Commonwealth as Personnel Administrator from December 1991. His career which spans close to 40 years, has focused on both corporate human resource management and employment consulting in private sector with the New England Life from 1957 to 1980, serving as Vice President of Personnel & Equal Opportunity from 1975 through 1980 and as a Founder and Principal of an employment consulting business from 1981 to 1991. In addition to his current Government service, he was Director of the Office of State Service for Governor Francis W. Sargent in 1973 & 1974 and has been appointed to various committees at the Federal, State and Local level as well as elected Selectman in the Town of Southborough from 1968-1974. He is a graduate of Dartmouth College in 1956 receiving an A.B. in Government.

### **Commissioner William J. Dalton**

William J. Dalton, Esq. was appointed Commissioner of the Labor Relations Commission in 1992 and served as chairperson from 1993 to 1995. Previously, his public service has been as town moderator, selectmen, chairperson of selectmen, and member of the Planning Board in Andover. He has been an adjunct professor of law at Massachusetts School of Law and published a book, "Practical Public Sector Labor Relations" (Donahue Institute) in May of 1997. In addition to practicing law for almost thirty years, Commissioner Dalton has owned several businesses and was a newspaper columnist for the Eagle-Tribune, which published a collection of his columns in the book "Local Touch" (1986). He has a degree in economics from the Whittemore School at the University of New Hampshire, a Masters in Public Administration from the Kennedy School at Harvard, and an LLB from Boston University, where he was a member of the law review.

### **Commissioner Claudia T. Centomini**

Claudia T. Centomini, Esq. was appointed Commissioner of the Labor Relations Commission in 1993. Previously, she served as General Counsel to the Department of Labor and Industries from 1991 to 1993 and from 1989-1991 was legal counsel to the House Minority Leadership Office in the Commonwealth. She has been a panelist for MCLE and MBA seminars on such topics as public construction bidding laws, Massachusetts wage and hour laws and the Massachusetts personnel records statute. She is a graduate of the University of Michigan and Suffolk University Law School.

## **COMMISSION STAFF**

*Susan L. Atwater, Esq.*, has been an **Administrative Law Judge** at the Massachusetts Labor Relations Commission since 1988. She holds a B.A. degree from Wheaton College, Wheaton Ill.; and a J.D. degree from Suffolk University Law School, Boston, MA; Work Experience: Associate, Law Firm of Murphy, Hesse, Toomey & Lehane, Quincy, MA.

*Stephanie B. Carey, Esq.*, has been an **Administrative Law Judge** at the Massachusetts Labor Relations Commission since 1995. She holds a B.S. degree from Howard University, Washington, D.C.; M.Ed. degree from University of Toledo, Toledo, Ohio; and a J.D. degree from Northeastern University School of Law; Work Experience: Law Clerk to the Justices—Commonwealth of Massachusetts Trial Court, Superior Court Department; Deputy Chief Law Clerk—Commonwealth of Massachusetts Trial Court, Superior Court Department.

*John B. Cochran, Esq.*, has been the **Chief Counsel** of the Massachusetts Labor Relations Commission since 1982. Following his graduation from Suffolk University Law School in 1978, Mr. Cochran was a law clerk to the judges of the Connecticut Superior Court and worked as an associate with a national labor and employment law firm. He has been a member of the adjunct faculty of Boston University School of Law since 1983, teaches Labor Law at Suffolk University Law School, and has taught Labor Law at Boston College Law School. Mr. Cochran has served as a consultant to the Florida Public Employees Relations Commission and the Virgin Islands Public Employee Relations Board. He is the immediate past president of the Association of Labor Relations Agencies, an organization of all labor agencies in the United States and Canada, and has been a member of the Labor and Employment Law Section of the Massachusetts Bar Association.

*Diane M. Drapeau, Esq.* has been an **Administrative Law Judge** at the Massachusetts Labor Relations Commission since 1978. She holds B.A. and M.A. degrees from Duquesne University; and a J.D. degree from Suffolk Law School; member of Massachusetts Bar since 1978; Chair, Arbitration and Dispute Resolution Committee, MBA Labor & Employment Section (1993-1994); Member of MBA Labor & Employment Section Council (1994-1995); Vice Chair, MBA Labor & Employment Section Council (1995-1996); Chair, MBA Labor & Employment Section Council (1996-1997); Member of MBA Board of Delegates (1996-1997).

*Kimberly Eustace* has been an **Administrative Assistant** for the Massachusetts Labor Relations Commission since 1987. Mrs. Eustace is responsible for the docketing of all cases, types notices, decisions and court briefs, tabulates statistics and processes all internal and external records handled by the Commission.



*Philip J. Holmes, Esq.*, has been **Deputy Chief Counsel** at the Massachusetts Labor Relations Commission since 1996. He holds a B.A. degree from Dartmouth College in 1983 and a J.D. degree from Cornell Law School in 1986. He was an associate at Mudge Rose Guthrie Alexander & Ferdon in New York City from 1986 until 1988 and assistant district attorney at the Kings County District Attorney's Office in Brooklyn, New York from 1989 until 1991. From 1991 until 1996, he was an assistant attorney general at the Massachusetts Attorney General's Office. Since June 1996, he has been the deputy general counsel at the Massachusetts Labor Relations Commission. He is a member of the Massachusetts and New York Bars since 1987 and the Washington, D.C. Bar since 1988.

*Winnie Leung* has been a **Business Manager** at the Massachusetts Labor Relations Commission since 1987. Ms. Leung is responsible for the processing of all expenses for the Commission.

*John J. Mark*, has been the **Commission Conciliator** at the Massachusetts Labor Relations Commission since September 1996. Mr. Mark was a mediator with the Massachusetts Board of Conciliation and Arbitration for 19 years. He holds A.A., A.B. and A.M. degrees from Boston College and Boston College Graduate School and B.S., A.A. and A.B.D. degrees from Providence College.

*Robert McCormack, Esq.*, has been an **Administrative Law Judge** at the Massachusetts Labor Relations Commission since 1972. He holds a degree from Boston University, and a J.D. degree from B.U. Law School; Captain USAF, Strategic Air Command; Member of Mass. Bar since 1957.

*Julia McNamara* has been an **Administrative Assistant** at the Massachusetts Labor Relations Commission since 1995. Mrs. McNamara is responsible for the docketing of all cases, types notices, decisions and court briefs, tabulates statistics and processes all internal and external records handled by the Commission.

*Ann T. Moriarty, Esq.*, has been an **Administrative Law Judge** at the Massachusetts Labor Relations Commission since 1992. She holds a B.A. degree, magna cum laude, from Westfield State College; M.S. degree from the Labor Relations and Research Center, University of Massachusetts, Amherst, MA; M.S. degree from Simmons College; and a J.D. degree, cum laude, from Suffolk University Law School; Assistant Executive Secretary Labor Relations Commission, 1974-1977; Executive Secretary, 1977-1992;

*Carmel Nicholson* has been the **Administrative Service Coordinator** of the Massachusetts Labor Relations Commission since 1985. Mrs. Nicholson is responsible for all payroll and personnel matters.

**Marjorie H. O'Reilly, Esq.**, has been an **Administrative Law Judge** at the Massachusetts Labor Relations Commission since 1996. She holds a J.D. degree from Boston College Law School; Ed.M., from Harvard University; and a B.S. degree from Simmons College; Previous experience: Associate, Palmer & Dodge, LLP. Publications: Guardianship in Massachusetts: From Idiocy to Incompetency - Has the Law Changed or Just the Words?, The Massachusetts Family Law Journal, Sept. 1994, at 54. Professional Activities - Steering Committee, Young Lawyers Section of the Boston Bar Association; Focus Committee, Massachusetts Black Women Attorneys; Board of Directors, Guardianship Reform, Advocacy, Counseling and Education, Inc. (G.R.A.C.E.).

**Mark Preble, Esq.**, has been an **Administrative Law Judge** at the Massachusetts Labor Relations Commission since 1996, having been a Commission attorney since 1994. He holds a B.A. degree from the University of Massachusetts at Boston; J.D. degree, cum laude, from Suffolk University Law School.

**Shirley DeMarco Siciliano** has been **Collective Bargaining Specialist** at the Massachusetts Labor Relations Commission since 1973. Ms. Siciliano has been responsible for conducting on-site and mail ballots representation elections.

**Lisa Van Pelt, Esq.**, has been **Counsel** at the Massachusetts Labor Relations Commission since 1995. She holds a B.A. degree from Smith College, J.D. degree from Boston College Law School; member of Massachusetts Bar since 1994; member of the Labor and Employment Section of the Massachusetts Bar Association since 1995.

**Mike Wallace**, has been **Executive Secretary** of the Massachusetts Labor Relations Commission since April 1996. Following his graduation from Suffolk University's Master's program in Public Administration, Mr. Wallace was Chief Financial Officer for Secretary of Labor Christine E. Morris in the Executive Office of Labor since August 1991. For his work in the Executive Office, he received the 1995 Manuel Carballo Governor's Award for Excellence in Public Service. Mr. Wallace has a degree in political science from Bridgewater State College. He has also attended the Commonwealth's Program for Senior Executives at the Kennedy School of Government at Harvard University.







